

**STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING**

Marcus Hassell,
RE: Registered Nurse License No. R35245

Petition No. 2004-0318-010-021

MEMORANDUM OF DECISION

Procedural Background

Marcus Hassell (hereinafter "petitioner") was issued registered nurse license No. R35245.

Pursuant to Memorandum of Decision dated March 17, 1999, the Board of Examiners for Nursing (hereinafter "the Board") ordered the revocation of petitioner's registered nurse license.

In a letter dated December 9, 2003, petitioner requested that the Board reinstate his registered nurse license. Board. Exh. 1.

Pursuant to Petitioner's request, the Board issued a Notice of Hearing dated March 8, 2004, scheduling a hearing for July 21, 2004. Board Exh. 2.

The hearing took place on July 21, 2004, at the Legislative Office Building, Capitol Avenue, Hartford, Connecticut. Petitioner was present at the hearing and was represented by counsel. Transcript, July 21, 2004.

Each member of the Board involved in this decision attests that he/he was present at the hearing or has reviewed the record, and that this decision is based entirely on the record and the Board's specialized professional knowledge in evaluating the evidence.

Findings of Fact

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. Petitioner was issued registered nurse license No. R35245 on March 23, 1982.
2. Prior to becoming licensed as a registered nurse in the State of Connecticut, petitioner held a professional nursing license in the State of Texas. On or about November 10, 1982, petitioner's Texas nursing license was revoked for appropriating controlled substances without authorization and for signing out medications on controlled substance records without a physician's order. Board Exh. 1.

3. Pursuant to a Memorandum of Decision dated August 22, 1984, petitioner's Connecticut registered nurse license was revoked for diverting controlled substances; falsifying medication administration records; failing to maintain proper and adequate medication records; and abuse of controlled substances including use of controlled substances while on duty. Petitioner's conduct occurred during 1983 and 1984. Board Exh. 1.
4. Pursuant to a Memorandum of Decision on Reinstatement Request dated October 28, 1987, petitioner's registered nurse license was reinstated and placed on probation for a period of two years. Board Exh. 1.
5. Pursuant to Memorandum of Decision dated March 17, 1999, the Board ordered the revocation of petitioner's registered nurse license. The order was based on the Board's findings that during 1997, petitioner had obtained drugs, including controlled substances, by using false prescriptions and that petitioner abused or utilized to excess the drugs he obtained. Board Exh. 1.
6. From on or about December 10, 1997 to February 22, 1998, petitioner engaged in substance abuse treatment at New Britain General Hospital, New Britain, Connecticut. Resp. Exh. A.
7. Petitioner began substance abuse treatment at Wheeler Clinic, Plainville, Connecticut on or about January 22, 1998, and began in individual treatment with a psychologist. From on or about August 1, 2002 to December 19, 2003 petitioner participated in weekly group sessions at the Elms Transitional Living Program, Bristol, Connecticut. Board Exh. 1; Resp. Exh. A.
8. Petitioner's therapist, with whom he has been in treatment since 1998, is of the opinion that petitioner can safely return to the practice of nursing. Board Exh. 1; Resp. Exh. A.
9. Petitioner has participated in voluntary urine drug and alcohol screening. Results have been negative for the presence of alcohol and/or drugs. Board Exh. 1; Resp. Exh. A.
10. Petitioner has been an active participant in both Alcoholics Anonymous and Nurses for Nurses. Board Exh. 1.
11. From on or about October 17, 2002, petitioner has been employed as residential instructor at Community Residences Inc., Southington Connecticut. Petitioner provides services for clients of the Department of Mental Retardation. Board Exh. 1; Transcript, p. 7.

Discussion and Conclusions of Law

As stated in the Notice of Hearing, petitioner has the burden of satisfying the Board that he is able to practice as a registered nurse with reasonable skill and safety by presenting relevant evidence at the hearing, including the following:

1. Evidence from a licensed therapist documenting his drug free status and participation in therapy and counseling;
2. Personal references addressing his drug free status, emotional health, and work habits;

3. Documentary evidence from his current and past employers;
4. Documentary evidence of random, legally defensible screens for drugs and alcohol conducted by a therapist or physician;
5. Documentation of participation in support groups.

The Board finds that the petitioner has presented relevant and credible evidence to sustain his burden of satisfying the Board of his ability to return to the practice of nursing under the terms of the Order described below.

Order

Pursuant to its authority under §19a-17 and §20-99 of the General Statutes of Connecticut, the Board of Examiners for Nursing hereby orders the following:

1. The registered nurse license No. R35245, of petitioner, Marcus Hassell, shall be reinstated to probation for a period of four (4) years subject to the following conditions.
 - A. Petitioner shall successfully complete a Board approved registered nurse refresher program.
 - B. Certification of successful completion of the refresher program cited in Paragraph 1A shall be submitted to the Board, directly from the educational institution where said program was taken, within thirty (30) days of the program's completion.
 - C. Until such time that petitioner successfully completes the refresher program, petitioner is prohibited from practicing as a nurse, and petitioner's registered nurse license will be restricted and used for the sole purpose of participating in the refresher program.
2. If any of the following conditions of probation are not met, petitioner's registered nurse licensed practical nurse license may be subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.
 - A. During the period of probation, the Board shall pre-approve petitioner's employment or change of employment within the nursing profession. Petitioner shall not be employed as a nurse for a personnel provider service, assisted living services agency, homemaker-home health aide agency, or home health care agency, and shall not be self-employed as a nurse during the first two years of the probationary period.

- B. Petitioner shall provide a copy of this Memorandum of Decision to any and all employers if employed as a nurse during the probationary period. The Board shall be notified in writing by any employer(s), within thirty (30) days of the commencement of employment, as to receipt of a copy of this Memorandum of Decision.
- C. Petitioner shall not administer, count or have access to controlled substances, or have responsibility for such activities in the course of nursing duties during the first year of working as a nurse during the probationary period. Petitioner may administer controlled substances as part of the licensed practical nurse refresher program provided he receives direct supervision from a nursing instructor.
- D. If employed as a nurse, petitioner shall cause employer reports to be submitted to the Board by his immediate supervisor during the entire probationary period. Employer reports shall be submitted commencing with the report due on the first business day of month following employment as a nurse. Employer reports shall be submitted monthly during the first and fourth years of probation, and quarterly during the second and third years of probation.
- E. The employer reports cited in Paragraph 3D above shall include documentation of petitioner's ability to safely and competently practice nursing. Employer reports shall be submitted directly to the Board at the address cited in Paragraph 2P below.
- F. Should petitioner's employment as a nurse be involuntarily terminated, petitioner and/or his employer shall notify the Board, within seventy-two (72) hours, of such termination.
- G. If petitioner pursues further training in any subject area that is regulated by the Department, petitioner shall provide a copy of this Memorandum of Decision to the educational institution or, if not the institution, to petitioner's instructor. Such institution or instructor shall notify the Department in writing of receipt of a copy of this Memorandum of Decision within fifteen (15) days of receipt. Said notification shall be submitted directly to the Department at the address cited in Paragraph 2P below.
- H. At his expense, petitioner shall engage in therapy and counseling for chemical dependency with a Connecticut licensed or certified therapist, approved by the Board and the Department, during the entire period of probation.

- I. Petitioner shall provide a copy of this Memorandum of Decision to his therapist. The Board shall be notified in writing by his therapist, within thirty (30) days of the effective date of this Decision, as to receipt of a copy of this Memorandum of Decision.
- J. Petitioner shall cause evaluation reports to be submitted to the Board by his therapist during the entire probationary period. Therapist reports shall be submitted monthly during the first and fourth years of probation, and quarterly during the second and third years of probation.
- K. The therapist reports cited in Paragraph J above shall include documentation of dates of treatment, and an evaluation of petitioner's progress, including alcohol and drug free status, and ability to safely and competently practice nursing. Therapist reports shall be submitted directly to the Board at the address cited in Paragraph 2P below.
- L.
 - (1) At his expense, petitioner shall be responsible for submitting to observed random chain of custody urine screens for alcohol and drugs for the entire probationary period, at a testing facility approved by the Board, after consultation with the Department, as ordered by his therapist, and/or personal physician, and/or employer. Alcohol/drug screening may also be ordered by the Board to ensure compliance with this Order. Random alcohol/drug screens shall be legally defensible in that specimen donor and chain of custody can be identified throughout the screening process.
 - (2) Petitioner shall be responsible for notifying the laboratory, his therapist, the Board, the Department and his prescribing practitioner of any drug(s) he is taking. For any prescription of a controlled substance(s) for more than two consecutive weeks, the petitioner shall cause the provider prescribing the controlled substance(s) to submit quarterly reports to the Board and the Department until such time as the controlled substance(s) are no longer prescribed. The reports shall include the following:
 - 1. A list of controlled substances prescribed by this provider for the petitioner;
 - 2. A list of controlled substance(s) prescribed by other providers;
 - 3. An evaluation of the petitioner's need for the controlled substance;
 - 4. An assessment of the petitioner's continued need for the controlled substance(s).
 - (3) There must be at least two (2) such random alcohol/drug screen monthly during the entire probationary period.

(4) Random alcohol/drug screens shall be negative for the presence of alcohol and drugs. All positive results shall be confirmed by the Gas Chromatograph Mass Spectrometer (GC/MS) testing method. Chain of custody documentation must accompany all laboratory reports and/or the laboratory reports must indicate that chain of custody procedures have been followed.

(5) Random alcohol/drug screens must include testing for the following substances:

Amphetamines	Methadone
Barbiturates	Methaqualone
Benzodiazepines	Opiates (Metabolites)
Cannabinoids (THC Metabolites)	Phencyclidine (PCP)
Cocaine	Propoxyphene
Meperidine (Demerol)	Ethanol (alcohol)

(6) Laboratory reports of random alcohol and drug screens shall be submitted directly to the Board and the Department, at the address cited in Paragraph 2P below, by petitioner's therapist, personal physician or the testing laboratory.

- M. Petitioner shall not obtain for personal use and/or use alcohol or any drug that has not been prescribed for him, for a legitimate purpose, by a licensed health care practitioner authorized to prescribe medications. Petitioner shall not abuse and/or excessively use any drugs that are prescribed for a legitimate medical purpose.
- N. Petitioner is hereby advised that the ingestion of poppy seeds may produce a positive drug screen result indicating the presence of opiates/morphine. For that reason, any food substance containing poppy seeds should be avoided during the probationary period. In the event that a drug/alcohol screen is positive for opiates/morphine, the ingestion of poppy seeds shall not constitute a defense to such positive screen.
- O. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of address.
- P. All correspondence and reports are to be addressed to:

Bonnie Pinkerton, RN, Nurse Consultant
Department of Public Health
Division of Health Systems Regulation
 410 Capitol Avenue, MS #12HSR
 P. O. Box 340308
 Hartford CT 06134-0308

4. That any deviation from the terms of probation, without prior written approval by the Board of Examiners for Nursing, shall constitute a violation of probation, which will be cause for an immediate hearing on charges of violating this Order. Any finding that petitioner has violated this Order will subject petitioner to sanctions under §19a-17(a) and (c) of the General Statutes of Connecticut, including but not limited to, the revocation of his license. Any extension of time or grace period for reporting granted by the Board of Examiners for Nursing shall not be a waiver or preclude the Board's right to take subsequent action. The Board of Examiners for Nursing shall not be required to grant future extensions of time or grace periods. Notice of revocation or other disciplinary action shall be sent to petitioner's address of record (most current address reported to the Licensure and Registration Section of the Division of Health Systems Regulation of the Department of Public Health or the Board of Examiners for Nursing).
5. This Memorandum of Decision becomes effective, and the four (4) year probation of registered nurse license No. R35245 shall commence, on November 1, 2004.

The Board of Examiners for Nursing hereby informs petitioner, Marcus Hassell, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Hartford, Connecticut this 20th day of October, 2004.

BOARD OF EXAMINERS FOR NURSING

By 